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10. March 2010

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Abstract

Japan's new bar examination has been administered since 2006. This paper attempts to analyze how professors selected as members of the committee (The Justice Ministry's committee of the new national bar examination) influence the results of the examination. I use a panel data set to control for unobservable characteristics of universities when the numbers of successful candidate are examined. The major findings are: (1) From 2006 to 2007, number of professors on the committee affected the number of successful candidates. Furthermore, committee members specializing in compulsory common subjects had a significant effect but those specializing in a selective subject had no effect. (2) From 2008 to 2009, neither type of committee member influenced the number of successful candidates. The unexpected outcomes in 2006 and 2007 are considered to be the result of shortcomings in the new bar examination. This is in line with concept that high-powered incentive schemes are likely to induce behavior distortions (Jacob and Levitt, 2003). In 2008 and 2009, it is thought that social pressure against such unexpected behavior deterred such unfair behavior.

JEL classification: I28, K23, K40

Keywords: New bar examination, Behavior distortion, Fairness

1. Introduction.

One response to Japan's new bar examination, which was part of legal reforms planned to commence in 2006, was that new law schools began operation from April 2004. The reforms aimed to overcome Japan's strict and rather extraordinarily competitive bar examination by transplanting aspects of the US law school model. This effective deregulation of the lawyer market was anticipated have benefits through an increased supply of lawyers (Kinoshita 2000, 2002), and to resolve problems arising from the former examination that required a particular set of skills and specific techniques (Ministry of Education, Culture, Sports, Science and Technology 2004). Consequently, 68 new law schools commenced operation in 2004 with another 6 opening in 2005. This dramatic increase in the number of new law schools actually resulted in the new bar examination becoming far more competitive than it was predicted to be; mainly because of the larger number of new entrants than expected. This competitive pressure seems to have induced the new law schools to focus on the skills and techniques emphasized in the old bar examination; whereas the intention of the reforms was for the new law schools to focus on legal qualification through a 'process' of legal education, rather than focus at the 'point' of the bar examination (Asahi Newspaper 2007d, Tamura 2007).

The Ministry of Justice appointed members of the Justice Ministry's committee of the new national bar examination (hereafter, JMCNE) that would be responsible for setting and grading the examination. Total number of JMCNE members was approximately 120[1]. These members were selected from public prosecutors, attorneys, and university professors[2], including those lecturing at the new law schools (Ministry of Justice 2005, 2006, 2007a, 2008). This meant that a professor at a new law school who was also a JMCNE member could legitimately obtain copies of the examination prior to the examination date. In 2007, under the considerable competitive pressures that the new law schools faced, a JMCNE member who was also a professor at Keio University Law School[3], informed his students of the contents of

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[1] Only in 2006, this number was 82.

[2] Not only professors but also associate professors and lecturers are able to lecture in Japanese law schools. For the sake of simplicity, I call all such lecturers 'professor' in this paper.

[3] Keio University is regarded as a prestigious university in Japan. In Japan, the term "law school" had never been used in its usual context before the introduction of the new bar examination. So, all universities, including Keio, are new law schools.
Nevertheless, many applicants who graduated from Keio University have passed the old bar exam. These students went to a preparatory school to learn the technique to

the bar examination[4]. The scandal cast much doubt on the fairness of the newly introduced bar examination (Asahi Newspaper 2007b, Enomoto 2007)[5]. In response to critics appealing to public opinion, the Ministry of Justice announced a compliance rule for the new bar examination committee (Ministry of Justice 2007b)[6].

The new bar examination was predicted to affect not only the market structure of the legal profession but also Japan's legal education system (Lawley 2005). As well, the unfairness resulting from the dishonesty of a professor would have been the result of the way of that JMCNE members were selected and the rise of competitive pressure, both being caused by institutional shortcomings. Thus it is important to assess the effects of the policies regarding the institutional changes made to the bar examination and the start-up of many new law schools. Although a number of reports focused on legal education reform and Japan's new law schools have been presented (e.g., Chan 2005, Foote 2005, Nishida 2005, Nottage 2005, Omura et al. 2005, Saegusa and Dierkes 2005, Steele 2005, Taylor 2005), there are few studies, that analyze the influence of the reforms from an economic view point[7]. Accordingly, this research uses the panel data of bar examinations covering the period 2006-2009 to find the determinants of the numbers of successful candidates from various law schools, and to ascertain the effects of the number of professors on the bar examination committee. I attempt to analyze the effects of criticism of undesired behavior and the announcement of compliance. To this end, I compare the estimation results between the 2006-2007and 2008-2009 periods.

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pass the old bar exam.

[4] This professor was dismissed as a committee member and eventually resigned his position as a Keio professor (Nihon Keizai Newspaper 2007a). This is the first time that a member of the committee, for either the old or new bar, has been dismissed.

[5] This situation appears consistent with evidence from the United States of high stakes testing provided by Jacob and Levitt (2003). That is, that unexpected distortions such as cheating are induced depending on how the incentive systems are schemed, which is theoretically explained by general incentive theories, particularly the notion of multi-tasking (Holmstrom and Milgrom 1991).

[6] Recently, besides the case of the new bar examination, a growing number of undesired distortions stemming from competitive pressure on schools and teachers have been detected in Japan. For instance, since 2004 the Adachi ward in Tokyo has held a localized achievement test and then announced the results of each school; this resulted in a schoolmaster who oversaw a system of cheating to gain a higher score for their school (Nihon Keizai Newspaper 2007b, 2007c). As well, an examination related to gaining a teacher's license was leaked with the aim of improving the pass rate (Asahi Newspaper 2007 a, Ichikawa 2007). Many high schools skipped teaching compulsory subjects that were not directly related to the university entrance examination (Ariyoshi et al. 2007).

[7] Ramseyer and Rasmusen (2007) investigated whether Japanese courts experienced problems related to recruiting and resignations after the political turmoil in 1993.

The organization of this paper is as follows: Section II provides an overview of the bar examination reforms and gives a general background. Section III presents a simple econometric framework. The results of the estimations and discussion are provided in Section IV. The final section offers concluding observations and some policy implications.

2. Overview of the bar examination reforms.

2.1. Background of the new bar examination

It is well known that the number of judicial professionals such as judges, public prosecutors and attorneys has been scarce in Japan compared with other developed countries, mainly due to the strict regulation of the market for lawyers[8]. Such regulation appears to have resulted in a great loss for the Japanese economy (Kinoshita 2000). The Justice System Reform Council (JSRC) was established by the government to study basic policies and programs with the aim of making the justice system more familiar and accessible to the general public[9]. In 2001, the Council issued an opinion paper calling for fundamental reforms; this represented a transition from "small-scale justice" to "large-scale justice" and sought to extend the rule of law to all of society. One specific issue of these judicial reforms was to realize a substantial augmentation of the number of people working in the legal profession. The policy would be relevant to the emergence of various new types of conflicts concerning commercial enterprises, medical treatment, construction work, and so on (Yamada 2002)[10].

Based on the 2001 opinion report, new law schools commenced operation from April 2004. In the old bar examination, candidates were usually law majors and had made plans to take the bar examination when they were undergraduates. However, in response to the latent demand for new legal services from many sectors of modern Japanese society, these new schools were designed to be open to graduates from any field, and welcomed those who were already working. This would enable individuals with backgrounds in business, government or other professions to develop more specialized legal careers based on their prior work experience. Most students took the

[8] In 2001, the number of judicial professionals was 21,000 in Japan, while there were 36,000 in France and Britain, whose populations are each about half that of Japan (The daily Yomiuri 2001).

[9] For more detail, see the web site of JFBA.
http://www.nichibenren.or.jp/en/about/judicial_system.html

[10] In recent years, there has been a rapid expansion of foreign law firm operations in Japan, which has also increased the demand for new types of lawyers (Chan 2005).

three year standard course (*Mishu Course*). Students who possessed sufficient knowledge of the law were permitted to enter a special course (*Kishu course*) where the program could be completed in two years. Accordingly, applicants for the new law examination in 2006, the first to be held would be those who had completed the special course, meaning that the number of applicants for the 2006 examination was predicted to be small. That is to say, a full-scale new examination, which would include students from both the special and standard courses, would be held in 2007. The total numbers of successful applicants were 2087 and 1009, 1851, 2065, and 2043 in 2006, 2007, 2008 and 2009, respectively.

The JSRC originally called on law school administrators to provide a legal education that would be comprehensive enough for about "70 to 80 %" of candidate students to pass the new bar examination (JSRC 2001). This anticipated pass rate was far higher than that of the previous law examination, approximately 2-3%, and therefore was expect to encourage university students to invest more effort to become judicial professionals. The JSRC set the objective of raising the number of applicants allowed to pass the new bar examination to 1,500 in 2004 and 3,000 by 2010, with the aim of achieving a total of approximately 50,000 judicial professionals by 2018 (JSRC 2001). This implied that the total number of judicial professionals in 2018 would be more than twice that of 2001, which would result in a substantial increase in the net benefit to Japan[11]. In fact, once the new law school system was formally launched, most of Japan's major universities rushed to establish a law school, presumably because they felt that they could not maintain their previous status and might lose their prestigious social evaluation if they did not have a law school within the University (Yamada 2002, p.49). Consequently, more schools were established than had originally been expected. Prior to the 2006 examination, the JSRC announced that the anticipated pass rate in 2005 would be approximately 50 %, which was far smaller than that initially planned (Kakumu 2005). As anticipated, the pass rate in 2006 was 48 % in 2006. However, the actual pass rates declined constantly; 40% (2007), 33% (2008) and 27% (2009). Contrary to anticipation, the situation has gradually been exacerbated[12].

Prior to the establishment of the new law schools, applicants tended to rely greatly on a preparatory school system that specialized in "teaching to the test", not on a university curriculum that would not be relevant to the 'old' bar examination

[11] Kinoshita (2002) indicated that net increase of the total benefit per year is about 0.12-0.6 % of GDP if the civil service of the Japanese district courts were doubled.
[12] Kinoshita (2009) asserted that successful candidates should be increased under the previous bar examination system.

(Yamada 2002). The original plan for the new system aimed to decrease the influence of preparatory schools (Kakumu 2005). Whether applicants passed or failed the new bar examination would depend on the method of education and the guidance from lecturers at the law schools, in combination with the students' own efforts and ability, especially when the pass rate declined. The most important thing was for the schools to offer a quality education that would enable students to pass the examination. Hence, contrary to the original plan, professors would be more likely to shift away from non-tested areas or increased placement in special education, and end up, as before, merely "teaching to the test" (Jacob 2002). Inevitably, law schools turned out to be quasi-preparatory schools (Ishiwatari 2006).

2.2. Results and committee of new bar examination

JMCNE Members responsible for setting and marking examinations are appointed by the Ministry of Justice. JMCNE members are to be selected from jurists such as public prosecutors, attorneys, and university professors, including those from the new law schools (Ministry of Justice 2005, 2006, 2007a, 2008). Professors usually specialize in a specific area within their major subject. They also appear to favor this field when they teach students at law schools and when they set questions for the new bar examination. Such conditions ensure that questions tend to be closely related to the contents of these professor's lectures, even if they do not intend to "teach to the test". As a consequence, students who are able to take lectures from JMCNE members have a great advantage when they come to take the examination. Furthermore, the system for selecting JMCNE members could be one reason that the new law school professors who were also JMCNE members were able to acquire accurate information about the examination prior to it being held. The unexpected competitive environment, as previously mentioned, seems to have increased the incentive for professors on the committee to put some emphasis in their lectures on particular areas scheduled to be in the examination. In fact, in addition to the Keio University Law School member of the committee who informed his students about the content of the new bar examination in 2007, some similar cases of JMCNE members unfairly giving special lectures at law schools have been reported (Asahi Newspaper 2007 e). Table 1 shows that 20-45% of JMCNE members are professors, indicating that the effects of JMCNE members on the results of the examination cannot be ignored.

In more detail, the subjects of the new bar examination can be divided into compulsory common subjects and selective ones. All students must take the seven

compulsory common subjects and select one subject from among 8 electives[13]. Even in a law school employing a JMCNE member as a professor, some students study the elective subject that the JMCNE member professor taught, but other students study other elective subject. Hence, the advantage of employing JMCNE member professors of the elective subjects might be limited to the students who take the subject that the JMCNE member taught. On the other hand, all students can enjoy the benefits from studying common subjects if the JMCNE member is employed in the law school. Therefore, the JMCNE member specializing in compulsory common subjects is expected to have a greater effect on examination pass rates than a professor specializing in a selective subject.

Looking at Figure 1 reveals that the number of successful candidates is significantly larger in law schools that have a JMCNE member on their staff than those schools without such staff members. Table 2 shows that approximately 20 law schools had a JMCNE member on their staff, 50 did not. If students of law schools with a JMCNE member can obtain information concerning the contents of the bar examination, the new bar examination would naturally become unfair for students at law schools without JMCNE members.

After the new bar examination held in May 2007, the Keio University Professor's leaking of the contents of the bar examination drew severe criticism. To subdue this criticism, the Ministry of Justice announced compliance rules for the new bar examination committee in September 2007. Under these rules; (1) JMCNE members should not give guidance to candidates for the new bar examination, and (2) JMCNE members should not refer to the contents of the new bar examination in the presence of others. In the next section, I examine whether the response of Ministry of Justice to the scandal and the resulting social pressure was an effective deterrent.

3. Estimated model and interpretation of results.

3.1. Data

The data set used in this study is from law school level panel data from 2006 to 2009. Table 3 includes variable definitions, means and standard deviations. The dependent variable is the number of successful candidates[14]. The set of

[13] 7 compulsory common subjects comprise constitutional, administrative, commercial, civil, civil procedure, criminal and criminal procedure laws. The 8 elective subjects are taxation, labor, international, international private, economic, bankruptcy, environment and intellectual property laws.

[14] The data of 2006 is available at http://www.moj.go.jp/SHIKEN/SHINSHIHOU/h18-04kekka.pdf. 2007 at

independent variables is: Tuition fees collated from the Nikkei Career Magazine (various years); The number of professors on the JMCNE, divided into those specializing in compulsory common subjects and those in elective ones. Professors who are not JMCNE members. These data were obtained from the Ministry of Justice (2005, 2006a, 2007, 2008) and the Nikkei Career Magazine (various years).

3.2. Function form

Following from the discussion above, the estimated function of the number of successful candidates takes the following form:

$$NSUCC_{it}=\alpha_0+\alpha_1 COM_{it}+\alpha_2 NOCOM_{it}+\alpha_3 TUIT_{it}+\alpha_4 SCAL_{it}+\varepsilon_{it} \quad (1),$$

where $NSUCC$ represents the number of successful candidates of a law school i in year t, and α's represents the regression parameters. ε_{it} represents the error term. Estimates based on the OLS model of Eq. (1), however, may be biased if unobserved individual-level specific effects exist. For instance, the reputation and brand-name of a university seem to help attract good students, resulting in a large number of successful candidates. Furthermore, JMCNE members are thought to be selected from prestigious universities and hence the university's prestigious position appears to be positively correlated with the number of JMCNE members. For instance, The University of Tokyo is regarded as the most prestigious university in Japan (Nakazato et al., 2007). During 2006-2009, the total number of JMCNE members selected from The University of Tokyo was 41, meaning 16% of the total number of JMCNE members selected from universities (Ministry of Justice, 2005, 2006, 2007a, 2008). It is thus necessary to control for such endogenous bias. ε_{it} can be rewritten as $v_i+\omega_{it}$, and Eq. (1)then rewritten into:

$$NSUCC_{it}=\beta_0+\beta_1 COM_{it}+\beta_1 NOCOM_{it}+\alpha_3 TUIT_{it}+\alpha_4 SCAL_{it}+v_i+\omega_{it} \quad (2),$$

where v_i represents the constant individual-level specific effects and ω_{it} is the standard error. To account for unobserved individual-level specific effects, the Fixed Effects model is employed. This model allows v_i to be correlated with the independent variables, and the constant individual-specific effects v_i are differenced out (Woodridge, 2002). That is, characteristics of a university such as the average level of its students

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http://www.moj.go.jp/SHIKEN/SHINSHIHOU/h19kekka01-6.pdf. 2008 at http://www.moj.go.jp/SHIKEN/SHINSHIHOU/h20kekka01.html.
2009 at http://www.moj.go.jp/SHIKEN/SHINSHIHOU/h21kekka01.html.

and its prestige status can be controlled for. Furthermore, even if v_i, which captures these characteristics, is correlated with *COM*, the estimates of the Fixed Effects model will not be biased. As for *COM* (or *CCOM* and *SCOM*) and *NOCOM*, dependent and independent variables are evaluated at the sample means and therefore the coefficient values reported can be interpreted as elasticity[15].

COM represents the number of JMCNE members and is incorporated to capture the effect of JMCNE members on the numbers of successful candidates. *COM* is expected to take a positive sign if a JMCNE member makes a contribution to increase the number of successful candidates. For a closer examination, I divide *COM* into *CCOM* (JMCNE members teaching compulsory common subjects) and *SCOM* (JMCNE members teaching selective subjects). The anticipated signs of *CCOM* and *SCOM* are positive. Furthermore, as noted before, all candidates are obliged to take the compulsory common subjects, while they select just one subject from among 8 selective ones. Inevitably, *CCOM* is expected to have a greater effect on the number of successful candidates than does *SCOM*.

As control variables, I include *TUIT* and *SCAL*, standing for tuition and the number of students, respectively. Scarcity of information concerning education quality leads to an increase in demand for law schools with low tuition, which seems to affect the quality of students. To measure the scale of a law school, the number of students who entered the law school is considered better than the number of candidates who took the bar examination. This is because the number of candidates for the bar examination is restricted by the law school and so a selection bias occurs. There are students who cannot graduate from school after three years have passed since they entered the law school. Applicants who are not expected to pass the exam are instructed not to take the examination by professors, even if they have applied for the examination[16].

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[15] See more details for Greene (Greene1997, p.280).
In the linear model, $y = x'\beta + e$ the elasticity of y with respect to changes in x is

$$\gamma_k = \frac{\partial \ln y}{\partial \ln x_k} = \beta_k \left(\frac{x_k}{y} \right).$$

This values can be estimated by computing it at the sample means as

$$\lambda_k = \beta_k \left(\frac{\overline{x_k}}{\overline{y}} \right)$$

[16] Number of applicants was 2125, 5401, 7842, and 9734, in 2006, 2007, 2008, 2009, respectively. Actually, however, correspondent number of candidates was 2087, 4607, 6261, and 7392 (Ministry of Justice, 2006, 2007a, 2008, 2009).

4. Results.

4.1. Interpretation of results

Table 4 sets out the estimation results using data aggregated from 2006 to 2009. For a closer examination, the estimation results of the periods 2006-2007 and 2008-2009 are presented in Tables 5 and 6, respectively. In each Table, columns (1) and (2) present the results of OLS estimations and (3) and (4) provide the Fixed Effects estimations, respectively.

Looking at Table 4 reveals that *COM* yields a significant positive sign in column (1), while it shows a positive sign it is not statistically significant in column (3). What is more, in column (2), the sign of *CCOM* is positive and statistically significant at the 1 % level, whereas that of *SCOM* is negative. As shown in column (3), on the other hand, *CCOM* shows a positive sign but is not statistically significant, while that of *SCOM* continues to be negative. These results indicate that the effects of professors who are JMCNE members on the number of successful candidates disappeared when the Fixed Effects (unobservable features of a law school) are controlled for.

I now proceed to look at the results when the sample is divided into a 2006-2007 sample and a 2008-2009 one. For the period 2006-2007, I see from Table 5 that *COM* shows positive signs and is statistically significant at the 1 % level, not only in column (1) but also in column(3). The value of the *COM* coefficient shown in column (1) is 2.84, smaller than the 4.86 in column (3). Hence, the effects of the number of professors who are JMCNE members on the numbers of successful candidates are thought to increase when Fixed Effects are controlled for. *CCOM* shows positive signs and is statistically significant at the 1 % level, not only in column (2) but also in column (4). The value of the *CCOM* coefficient shown in column (2) is 4.09, smaller than the 4.40 in column (4). On the other hand, the signs of *SCOM* are negative and positive, in columns (2) and (4), respectively. Furthermore, those of *SCOM* are not statistically significant. Considering the results in Table 5 reveals that the positive effects of professors who are JMCNE members come from the JMCNE members who teach compulsory common subjects, not from those who teach selective subjects. These results are in line with the prediction.

With respect to Table 6, I observe that *COM* takes a significant positive sign in column (1) and that *CCOM* also takes a significant positive sign in column (2). However, the sign of *COM* becomes negative in column (3). The sign of *CCOM* continues to be positive but not statistically significant in column (4). *SCOM* produces a negative sign in columns (2) and (4), indicating that JMCNE members who teaches selective subjects do not have a role in increasing the numbers of successful candidates. It follows from what is observed in Table 6 that the positive effects of professors who

are JMCNE members disappear when Fixed Effects are controlled for.

Combining the results of Tables 4, 5, and 6, it can be implied that the number of professors who are JMCNE members was considered to increase the number of successful candidates prior to the scandal about the Keio University professor in 2007. In this period, it is evident that the inclusion of JMCNE members teaching common subjects had a far larger effect than the inclusion of JMCNE members specializing in a selective subject. After the upsurge of public criticism and the announcement of the compliance rules, JMCNE members came to have no effect on the number of successful candidates.

4.2. Discussion

According to Dr Nishida, a professor at Okayama University Law School, which is part of a non-urban national university, the high numbers of law schools and students might result in graduates who cannot become legal professionals; thus he expects that at least one-third of the current law schools will close within the next ten years (Nishida 2005). As a matter of necessity, national law schools will be encouraged to improve their educational quality and systems to increase the number of their successful candidates since a law school's survival might depend upon their new bar examination pass rate. Eventually, not only private but also national law school professors will come to share similar opinions about improvements to the education system. The market for law school education will become competitive, resulting in an efficient outcome, even if this is contrary to the principle of law schools in which competitiveness of the previous bar examination should be mitigated and so the influence of preparatory schools should be reduced (Ministry of Education, Culture, Sports, Science and Technology, 2004)[17]. Furthermore, this outcome is not considered to be undesirable from an economics point of view, and is a betrayal of trust in the fairness of the examination system.

The true nature of the problem is that the method of selecting JMCNE members hinders law schools from competing fairly. It is appropriate to call on the Ministry of Justice to not appoint JMCNE members from the ranks of professors and to prohibit JMCNE members from lecturing in law schools. In accordance with this, a plan to reduce the number of professors appointed as JMCNE members was

[17] On March 26, 2008, the Japan Law Foundation, one of the organs certifying and evaluating law schools, did not confirm Aichi University Law School as meeting its requirements; this was the first time for such a decision. This was mainly because this law school offered lectures that strongly focused on just the examination (http://www.jlf.or.jp/work/dai3sha/aichi_report2007.pdf).

announced (Asahi Newspaper 2007c). This scheme, however, has failed to be reflected in reality. As shown in Table 1, the ratio of professors to the total JMCNE members actually increased from 2007 to 2009 by approximately 20 %.

Despite of increase in the rates of JMCNE members who are professors, the upsurge of criticism triggered by the scandal surrounding the Keio University professor in 2007 played an important role in preventing professors behaving undesirably, and thus made the examination competition more fair. Leakage of the contents of the bar examination might result in benefits if the leak made a contribution to increasing the number of successful candidates. On the other hand, a university's reputation might be harmed if the leak became known to the public, which can be considered a cost. The cost of a leak outweighs its benefit, thus discouraging a university from adopting such an unfair measure. This holds true especially when the likelihood that such actions would be revealed publicly is high.

The system of including law school professors as JMCNE members has not been changed thus far. Hence, the essential problem regretfully continues to exist. According to Duggan and Levitt (2002), unfair behavior such as match rigging in "Sumo wrestling (a traditional fighting sport in Japan)" temporarily disappears in times of increased media scrutiny and criticism. Nevertheless, as time passes, match rigging reemerges. The increase in competition among law schools is thought to raise the incentive for professors to undertake patterns of unfair behavior. That is, not only the benefits stemming from a competitive mechanism but also the fairness of the examination itself will be sacrificed unless citizens and the mass media keep an eye open for undesirable behavior by law school professors. Thus, it is necessary for citizens and the media to pay attention not only to the number of successful candidates but also to the fairness of the examination competition to maintain the element of fairness in the bar examination.

5. Concluding remarks.

The inauguration of a new bar examination was designed to bring about benefits to modern Japanese society by providing for greater numbers of lawyers with their specialized legal careers based on a wider range of backgrounds than before its introduction. This was in response to the highly specialized and complicated circumstances that then existed in Japan, and to the effects of moves towards globalization. New law schools were anticipated to focus on legal qualification through a 'process' of legal education; therefore, differing from the previous system, which in

effect only evaluated applicants' skill at passing the examination. Nevertheless, a situation contrary to the original purpose of the new system came about soon after its introduction. A proliferation of new law schools increased the competitive pressure on professors to raise their law school's pass rate to enable the law school to survive, resulting in professors having an incentive to cheat. Consequently, a scandal occurred in 2007 in which a professor gave his students prepared answers and explained points similar to those he knew would appear in the examination. I considered that such a scandal was caused by the shortcomings of the new system; therefore, I attempted to investigate how and to what extent the new system hampered the establishment of marketplace desired for the new law schools.

After controlling for unobservable universities' specific effects using a Fixed Effects model, this paper concluded as follows:

(1) From 2006 to 2007, the number of professors serving as JMCNE members affected the number of successful candidates. Furthermore, JMCNE members specializing in teaching the compulsory common subjects had a significant effect, but those teaching elective subjects had no effect.

(2) From 2008 to 2009, no type of JMCNE member influenced the number of successful candidates.

Considering the estimation results together, I feel it appropriate to remark that universities with a JMCNE member enjoyed the benefits since that professor could take advantage of their information about the examination when from 2006 to 2007 there was an incentive to 'teach to the test'. The reason such an undesirable outcome could occur is that professors who were JMCNE members were encouraged to cheat by the strong competitive pressure compared with the system governing the previous bar examination. This mechanism is tied to the claim that high-powered incentive schemes are likely to induce behavior distortions (Jacob and Levitt, 2003). The fact that a professor who was a JMCNE member informed his students of the contents of the new bar examination in 2007 caused a scandal that triggered harsh criticism about the fairness of the newly introduced examination. The situation since that event has changed drastically. The existence of professors who are JMCNE members does not now influence the results of the examination.

The compliance rules promulgated by the Ministry of Justice regarding the new bar examination have little legal force and little sanction power; thus they have only a minor role in deterring professors who are JMCNE members from engaging in prohibited behavior. To make the market function well, and to prevent professors from cheating, as well as to bring back fairness to the new bar examination, the Ministry of

Justice should not appoint professors from law schools as JMCNE members. If it is difficult to change the system, the news media should be vigilant about the conditions surrounding bar examination, not least with an aim to continue to put those involved in law school under social pressure arising from public opinion.

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TABLE 1

Ratio of professors of committee members (%)

	Common subject	Selective subject	Total
2006	30.9	25.0	28.0
2007	20.5	25.0	21.7
2008	28.2	37.5	31.3
2009	46.1	38.0	43.3

Source: Ministry of Justice (2005, 2006, 2007, 2008).

TABLE 2

Number of universities with committee members and without it.

	Committee	Non-committee
2006	17	57
2007	24	50
2008	17	57
2009	20	54

Source: Ministry of Justice (2005, 2006, 2007, 2008). Nikkei Career Magazine (2006, 2007, 2008, 2009).

TABLE 3

Descriptive statistics

Variables	Definition	Mean	Standard deviation
NSUCC	Number of successful candidates to enrollment entering law school three years ago (%).	25.4	38.6
COM	Number of professors of committee members	0.85	2.01
CCOM	Number of professors of committee members of compulsory common subjects	0.63	1.46
SCOM	Number of professors of committee members of selective common subjects	0.22	0.64
NOCOM	Number of professors of non-committee member	21.8	11.1
TUIT	Tuition (Thousands Yens)	1142	316
SCAL	Number of students (Number of students who entered the law school three years ago)	66.4	56.6

TABLE 4

Determinants of number of successful candidates (All years)

Variables	(1)OLS	(2)OLS	(3)FIXED	(4)FIXED
COM	2.65**		0.21	
	(4.72)		(0.22)	
CCOM		3.29**		0.27
		(3.02)		(0.37)
SCOM		-0.20		-0.08
		(-0.34)		(-0.22)
NOCOM	4.49	4.87	9.05	9.25
	(0.94)	(0.99)	(0.92)	(0.93)
TUIT	-0.11**	-0.10**	-0.07	-0.07**
	(-3.55)	(-3.59)	(-1.60)	(-1.60)
SCAL	0.44**	0.42**	0.27**	0.27**
	(11.2)	(11.2)	(2.62)	(2.60)
R-square	0.87	0.87	0.52	0.52
Number of groups			74	74
Number of Observations	257	257	257	257

Notes: Values of COM, CCOM, SCOM and NOCOM are elasticity is evaluated at the sample means and its t-statistics is calculated by delta method. Numbers in parentheses are t-value. ** and * means statistically significant at the 1 % and 5% level, respectively. Constant is included in OLS estimations. Year dummies are included in all estimations.

TABLE 5

Determinants of number of successful candidates (2006 & 2007)

Variables	(1)OLS	(2)OLS	(3)FIXED	(4)FIXED
COM	2.84**		4.86**	
	(3.95)		(4.60)	
CCOM		4.09**		4.40**
		(3.67)		(4.60)
SCOM		-0.54		0.32
		(-1.40)		(0.65)
NOCOM	-0.14	0.21	10.4	11.1
	(-0.07)	(0.10)	(1.58)	(1.57)
TUIT	-0.10**	-0.09**	0.29	0.29
	(-4.09)	(-3.59)	(0.17)	(0.17)
SCAL	0.44**	0.41**	0.26**	0.26**
	(14.3)	(12.6)	(6.61)	(6.27)
R-square	0.92	0.92	0.87	0.87
Number of groups			74	74
Number of Observations	119	119	119	119

Notes: Values of COM, CCOM, SCOM and NOCOM are elasticity is evaluated at the sample means and its t-statistics is calculated by delta method. Numbers in parentheses are t-value. ** and * means statistically significant at the 1 % and 5% level, respectively. Constant is included in OLS estimations. Year dummies are included in all estimations.

TABLE 6

Determinants of number of successful candidates (2008 & 2009)

Variables	(1)OLS	(2)OLS	(3)FIXED	(4)FIXED
COM	3.44**		-2.53	
	(4.46)		(-1.66)	
CCOM		5.01**		0.31
		(2.61)		(0.20)
SCOM		-0.61		-2.75**
		(-0.69)		(-2.43)
NOCOM	14.2	15.1	-8.96	-11.3
	(1.21)	(1.47)	(-0.34)	(-0.51)
TUIT	-0.09	-0.07	0.07**	0.09**
	(-1.56)	(-1.38)	(2.73)	(3.79)
SCAL	0.36**	0.31**	-0.27*	-0.31**
	(3.47)	(3.12)	(-2.26)	(-3.10)
R-square	0.86	0.87	0.25	0.33
Number of groups			74	74
Number of Observations	138	138	138	138

Notes: Values of COM, CCOM, SCOM and NOCOM are elasticity is evaluated at the sample means and its t-statistics is calculated by delta method. Numbers in parentheses are t-value. ** and * means statistically significant at the 1 % and 5% level, respectively. Constant is included in OLS estimations. Year dummies are included in all estimations.

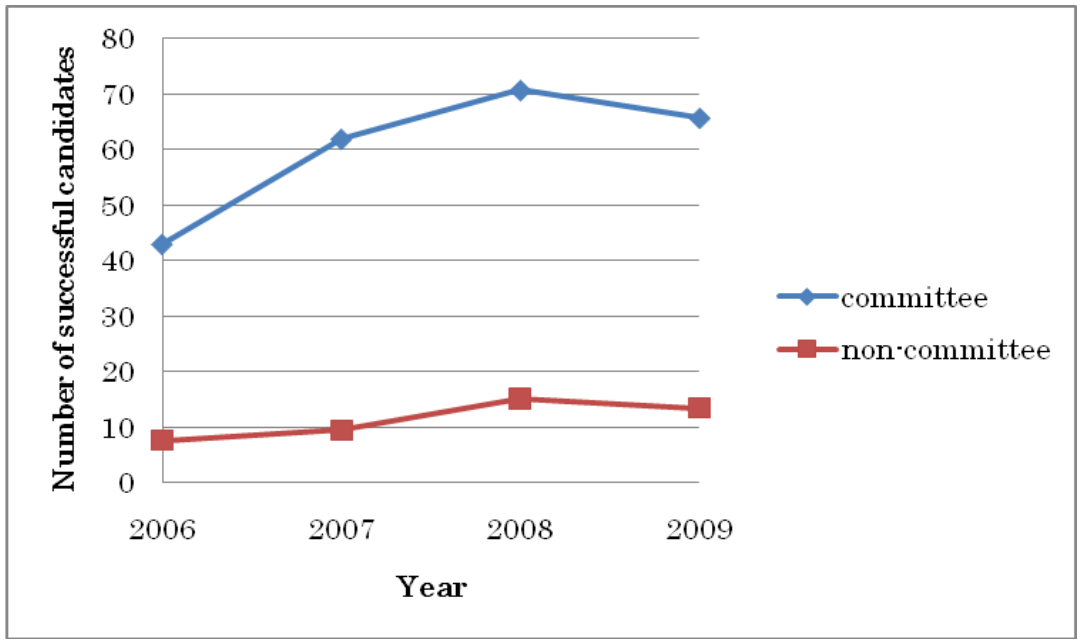

FIGURE 1

Average Number of Successful Candidates of University with committee Member and without Committee Members